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| APPLICATION NO. | FILING DATE | FIRST NAMED INVENTOR | ATTORNEY DOCKET NO. | CONFIRMATION NO. |
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| 10/077,475 | 02/15/2002 | John W. Babich | BSA-007.02 | 2754 |

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| EXAMINER |
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PATTERSON, CHARLES L JR

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| ART UNIT | PAPER NUMBER |
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1652

DATE MAILED: 11/04/2003

Please find below and/or attached an Office communication concerning this application or proceeding.

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| APPLICATION NO./ CONTROL NO. | FILING DATE | FIRST NAMED INVENTOR / PATENT IN REEXAMINATION | ATTORNEY DOCKET NO. |
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Commissioner for Patents

The amendment filed on 9/15/03 canceling all claims drawn to the elected invention and presenting only claims drawn to a non-elected invention is non-responsive (MPEP § 821.03). The remaining claims are not readable on the elected invention because the previous claims were drawn to a method of treating a disease and the new claims are drawn to a medical article. Claims that would read on the presently submitted claims were restricted out in the parent case, as acknowledged by applicants in their arguments. Since the present claims would have been restricted out if presented previously and the prosecuted claims were elected by original presentation, this response is non-responsive. Applicants must either prosecute the originally elected invention of claims 139-164 or else abandon the instant application and re-file a divisional application.

Since the above-mentioned amendment appears to be a *bona fide* attempt to reply, applicant is given a TIME PERIOD of ONE (1) MONTH or THIRTY (30) DAYS, whichever is longer, from the mailing date of this notice within which to supply the omission or correction in order to avoid abandonment. EXTENSIONS OF THIS TIME PERIOD UNDER 37 CFR 1.136(a) ARE AVAILABLE.


Charles L. Patterson, Jr.
Primary Examiner
Art Unit: 1652